

REMARKS/ARGUMENTS

In the Office Action of December 26, 2008, claims 1-9 were rejected. In response, claims 1, 4, 5 and 7 have been amended and claim 3 has been canceled. Support for the amendments to claims 1 and 7 is found at Applicants' specification, for example, on page 7, lines 27-32. Support for the amendments to claim 5 is found at Applicants' application, for example, in original claim 5. Additionally, claims 11-14 have been added. Support for new claims 11 and 13 is found at Applicants' specification, for example, on page 7, lines 1-6. Support for new claims 12 and 14 is found at Applicants' specification, for example, on page 7, lines 4-10. Applicants hereby request reconsideration of the application in view of the claim amendments, the new claims, and the below-provided remarks.

Claim Rejections under 35 U.S.C. 102 and 35 U.S.C. 103

Claims 1-3 and 5-9 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Petsko et al. (U.S. Pat. No. 6,018,650, hereafter "Petsko"). Claim 4 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Petsko. In response, Applicants have amended claims 1, 4, 5 and 7, canceled claim 3 and added claims 11-14. Applicants respectfully submit that the pending claims are patentable over Petsko for the reasons provided below.

Independent Claim 1

As amended, the independent claim 1 recites in part "*measuring means for measuring the level of said output signal in a given frequency channel to produce successive measurements of the level of said output signal in said given frequency channel and calculating an average of said successive measurements of the level of said output signal in said given frequency channel*" (emphasis added), which is not disclosed in Petsko. Thus, the amended independent claim 1 is not anticipated by Petsko.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal*

Bros. v. Union Oil of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Petsko discloses that a processor (30) samples RF output power level of a transmitted signal at each of the respective frequencies and computes the average variation in the output power levels for the different frequencies relative to each other, see Fig. 2 and column 13, lines 1-15. That is, Petsko discloses that the processor (30) computes the average variation of the output power levels of the transmitted signal at different frequencies. However, Petsko does not disclose that the processor (30) makes multiple measurements of the output power level of the transmitted signal in each frequency channel and calculates an average of the multiple measurements of the output power level of the transmitted signal in each frequency channel. Thus, Petsko does not disclose “*measuring means for measuring the level of said output signal in a given frequency channel to produce successive measurements of the level of said output signal in said given frequency channel and calculating an average of said successive measurements of the level of said output signal in said given frequency channel*” (emphasis added), as recited in the amended independent claim 1.

Since Petsko does not disclose all of the limitations of the amended independent claim 1, Applicants respectfully assert the amended independent claim 1 is not anticipated by Petsko, and thus, is now in the condition for allowance.

Dependent Claims 2 and 4-8

Claim 4 has been amended to be dependent on claim 2. Claim 5 has been amended to add the term “table.” Claims 2 and 4-8 depend from and incorporate all of the limitations of independent claim 1. Thus, Applicants respectfully assert that claims 2 and 4-8 are allowable at least based on an allowable claim 1.

Independent Claim 7

Claim 7 has been amended to include the phrase “*to produce successive measurements of the level of said output signal in said given frequency channel and calculating an average of said successive measurements of the level of said output signal in said given frequency channel.*” As amended, claim 7 includes similar limitations to

amended claim 1. Because of the similarities between claim 1 and claim 7, Applicants respectfully assert that the remarks provided above with regard to amended claim 1 apply also to amended claim 7. Accordingly, Applicants respectfully assert that Petsko does not disclose all of the limitations of claim 7. Thus, Applicants respectfully assert that claim 7 is not anticipated by Petsko.

Dependent Claim 9

Claim 9 depends from and incorporates all of the limitations of independent claim 7. Thus, Applicants respectfully assert that claim 9 is allowable at least based on an allowable claim 7.

New claims 11-14

New claims 11 and 12 depend from and incorporate all of the limitations of independent claim 1. Thus, Applicants respectfully assert that claims 11 and 12 are allowable at least based on an allowable claim 1. New claims 13 and 14 depend from and incorporate all of the limitations of independent claim 7. Thus, Applicants respectfully assert that claims 13 and 14 are allowable at least based on an allowable claim 7. Additionally, claims 11 and 13 are allowable for further reasons, as described below.

New claims 11 and 13 recite in part: “*wherein the set of equations comprises:*

$$Y = -7.0258 * 10^{-8} X^4 + 5.0247 * 10^{-5} X^3 - 1.3011 * 10^{-2} X^2 + 1.1268 * X - 30.8,$$

when $0 < X < 420$ MHz;

$$Y = -1.6317 * 10^{-11} X^4 + 3.0699 * 10^{-7} X^3 - 4.9971 * 10^{-4} X^2 + 0.24851 * X - 43.94,$$

when $420 < X < 840$ MHz; and

$$Y = -6.3403 * 10^{-10} X^4 + 1.666 * 10^{-6} X^3 - 1.6353 * 10^{-3} X^2 + 0.70595 * X - 122.85,$$

when $X > 840$ MHz,

where X is one of said frequency channels and Y is the real gain of said selective filter for said frequency channel X .”

Applicants respectfully assert that Petsko does not disclose or teach the recited limitation of claims 11 and 13. Thus, Applicants respectfully assert that claims 11 and 13 are patentable over Petsko.

CONCLUSION

Applicants respectfully request reconsideration of the claims in view of the amendments, new claims, and remarks made herein. A notice of allowance is earnestly solicited.

Respectfully submitted,
Seneschal et al.

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By: /thomas h. ham/
Thomas H. Ham
Reg. No. 43,654

Wilson & Ham
PMB: 348
2530 Berryessa Road
San Jose, CA 95132
Phone: (925) 249-1300
Fax: (925) 249-0111